REMARKS

The Applicants respectfully request reconsideration in view of the following remarks. Claims 1 and 11 have been amended. Claims 26-28 have been added. No claims have been cancelled. Accordingly, claims 1-28 remain pending in the Application.

I. Claims Rejected Under 35 U.S.C. § 103

Claims 1-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,954,757 issued to Zargham et al. (hereinafter "Zargham") in view of U.S. Patent No. 7,197,533 issued to Vincent et al. (hereinafter "Vincent").

To establish a *prima facie* case of obviousness the Examiner must set forth a clear articulation of the reasons that the claimed invention would have been obvious. The reasoning cannot be based on mere conclusory statements. See KSR Int'l Co. v. Teleflex Inc. (KSR), 82 USPQ2d 1385, 1396 (2007) and MPEP § 2142. Further, the Federal Circuit has clarified that the determination of the proper combination of prior art teachings in light of the Supreme Court's decision in KSR Int'l Co. v. Teleflex Inc. is to be based on the flexible application of the teaching, suggestion and motivation (TSM) test, because "as the Supreme Court suggests, a flexible approach to the TSM test prevents hindsight and focuses on evidence before the time of the invention." In re Translogic Tech., Inc., 504 F.3d 1249, 1257 (Fed. Cir. 2007).

In regard to claim 1, this claim has been amended to recite "a message server having no persistent state such that the message server can be restarted after a failure without performing state recovery operations" (emphasis added). These amendments are intended to further explain the "persistent state" element of claim 1 and are supported, for example, by paragraph [0013] of the Specification. The Examiner acknowledged that Zargham fails to disclose the cited elements of claim 1. See Office Action, Page 3. Instead the Examiner cited column 5, lines 9-19 and column 2, lines 1-3 of Vincent as allegedly disclosing the cited elements of claim 1. See *Id.* The Applicants respectfully submit that the Examiner has misinterpreted the cited sections of Vincent as disclosing a message server having no persistent state. Instead, the cited sections disclose a non-persistent service which communicates with servers that do have a persistent state. However, Vincent does not disclose a *server* having no persistent state.

Specifically, the cited sections of Vincent disclose a process for handling transactions received from a non-persistent service to a middleware server. See Vincent, Column 5, Lines 9-

19. The middleware server works in conjunction with a web application server to transfer messages to and from the non-persistent service. See Vincent, Fig. 2 and Column 5, Lines 20-32. Moreover, the non-persistent service is run on a client computer and transmits messages/requests from the client computer to the web application server. See Vincent, Column 5, Lines 20-32. The web application server maintains state information for both itself and the non-persistent instance to facilitate a rollback procedure in case a communicate error occurs. See Vincent, Column 5, Lines 45-52 and Column 6, Lines 41-56. Thus, the web application server in Vincent has a persistent state, because Vincent discloses that the state of the web application server is used to perform rollback procedures. See *Id.* Additionally, Vincent fails to disclose that the middleware server does not maintain a persistent state, because there is no discussion regarding whether the middleware server maintains a persistent state.

Moreover, a person of ordinary skill in the art would understand the non-persistent service of Vincent is not server. "A Server is a computer that provides services used by other computers." "Server (computing)." Wikipedia: The Free Encyclopedia. Wikimedia Foundation, Inc. 27 March 2009. < http://en.wikipedia.org/wiki/Server_(computing)>. However, the non-persistent service of Vincent is described as an instant messaging client service running on a client computer. See Vincent, Column 5, Lines 9-19. This non-persistent instant messaging client service does not provide a service which is used by *another computer* as the definition of server requires, but instead provides a service used by the local client computer. See "Instant Messaging." Wikipedia: The Free Encyclopedia. Wikimedia Foundation, Inc. 27 March 2009. < http://en.wikipedia.org/wiki/Instant_messaging>. Consequently, the non-persistent service of Vincent is not a server as recited in claim 1.

Thus, Vincent fails to disclose "a message server having no persistent state," because there is no disclosure of any *server* in Vincent that does not maintain a persistent state. Therefore, the combination of Zargham and Vincent fails to teach or suggest each element of claim 1. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1 for being unpantentable over the combination of Zargham and Vincent.

In regard to claims 6, 14, and 18, these claims recite elements analogous to those of claim 1. For at least the reason discussed above in claim 1, the Applicants submit that the combination of Zargham and Vincent does not disclose these elements of claims 6, 14, and 18. Thus, the combination of Zargham and Vincent does not disclose each element of these claims.

Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of these claims.

Claims 2-5, 7-13, 15-17, and 19-25 depend from independent claims 1, 6, 14, and 18, respectively, and incorporate the limitations thereof. Thus, at least for the reasons discussed above in regard to the independent claims 1, 6, 14, and 18, the combination of Zargham and Vincent does not disclose each element of the dependent claims 2-5, 7-13, 15-17, and 19-25. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of these claims.

II. Additional Claim Amendments and New Claims

The Applicants respectfully submit an amendment to claim 11 to cure a typographical error. The Applicants respectfully submit the amendment is supported by the Specification and does not add new matter.

The Applicants respectfully submit new claims 26-28. These amendments are supported, for example, by original claims 10, 11, and 13 and paragraphs [0013], [0017] and [0018] of the Specification. The Applicants respectfully submit the new claims are supported by the Specification and do not add new matter. Accordingly, the Applicants respectfully request consideration and entry of new claims 26-28.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 1-28, patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

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Jessica Huester — Date 4/22/09